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January 3, 2007

TTAB

Assistant Commissioner for
Patents and Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Trademark Opposition
Serial No.: 78/747,912
Mark: EUROTIRE
Big O Tires, Inc. vs. Uriel Tzvi Laber
Our Reference: I-5508

Sir:

We enclose the following for filing in the Patent and Trademark Office:

- ☐ Application for trademark/service mark
registration, formal drawing, and:
 - ☐ Specimens
 - ☐ Certified copy (and translation) of foreign
registration
- ☐ Declaration Under Section 8 with specimen(s)
- ☐ Combined Declaration of Use/Application for Renewal with specimen(s)
- ☒ **Notice of Opposition**

Also enclosed is a copy of our Credit Card Payment form for the required filing fee
in the amount of \$300.00. Should this form become detached, or the amount be insufficient, please
charge our Deposit Account, No. 06-1358.

Respectfully submitted,

JACOBSON HOLMAN, PLLC

By: 

Matthew J. Cuccias

SLM/MJC/rmk
Enclosures



01-03-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BIG O TIRES, INC.,)	
)	
Opposer,)	
)	Opposition No.
vs.)	
)	
URIEL TZVI LABER,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 78/747,912, filed November 5, 2005, in the name of Uriel Tzvi Laber, published for opposition in the Trademark Official Gazette on July 4, 2006, Vol. 1308, No. 1, at page TM 557, for the mark EURO TIRE, the Opposer Big O Tires, Inc., believes it will be damaged by registration of said alleged trademark and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, Big O Tires, Inc. [hereinafter "Big O"], is a corporation duly organized and existing under the laws of the State of Nevada and having its place of business at 12650 East Briarwood Avenue, Centennial, Colorado 80112. Opposer markets, distributes and sells a variety of automotive products and accessories, and provides retail store and franchise services.

2. Commencing prior to the filing date of the application opposed herein, Opposer has, and is now, engaged in the distribution and sale of tires in commerce in the United States, under and in connection with the trademark **EURO TOUR**. Opposer Big O continuously has used said Opposer's **EURO TOUR** Mark in commerce in connection with Opposer's products produced,

advertised, offered for sale, and sold by Big O, and to identify and designate same, and to distinguish those goods from those of others.

3. Opposer Big O is the owner of, and will rely on herein, the following U.S. trademark registration for its **EURO TOUR** Mark:

<i>REGISTRATION NO.</i>	<i>ISSUE DATE</i>
2,804,363	January 13, 2004

Said registration is valid and subsisting, and constitutes *prima facie* evidence of Opposer Big O's ownership of Opposer's **EURO TOUR** Mark, and exclusive right to use same in commerce in connection with the goods set forth in said registration.

4. Since Opposer's initial use of Opposer's **EURO TOUR** Mark, Big O has used, and advertised, produced and offered its goods under and in connection with said mark to the public, through various channels of trade, and in commerce, with the result that Opposer's customers and the public in general have come to know and recognize said mark of Opposer and associate same with Opposer and/or the goods produced, advertised, marketed, distributed, and sold directly or indirectly by Opposer Big O, Opposer's business and/or stores. Opposer thus has built up goodwill in connection with the sale of its products under Opposer's **EURO TOUR** Mark.

5. On November 5, 2005, Applicant filed an application to register the mark EUROTIRE. Said application was accorded Serial No. 78/747,912, and was published for opposition in the Official Gazette of July 4, 2006, at page TM 557, identifying the goods as "off road tire for use on earth moving machinery and mining vehicles."

6. The EUROTIRE mark sought to be registered by Applicant is a colorable imitation of, and/or confusingly similar to, Opposer's prior and aforesaid **EURO TOUR** Mark.

7. On information and belief, the goods set forth in the application opposed herein are or may be found to be identical, similar and/or related to the goods in connection with which Big O uses Opposer's **EURO TOUR** Mark, and on information and belief, the goods set forth in the opposed application are and/or may be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Big O's products are marketed and/or sold.

8. On information and belief, the registration of the EUROTIRE mark, as set forth in the opposed application, may be likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicant's goods as identified in the application sought to be registered by Applicant vis-a-vis Opposer and/or its **EURO TOUR** Mark, and/or may mislead purchasers of Applicant's and/or Opposer's goods, and/or the public in general, into believing that Applicant's goods emanate from, and/or in some way, directly or indirectly, are associated with Big O, and/or Opposer's **EURO TOUR** Mark, products, or vice versa, to the damage and detriment of Big O.

9. By virtue of the foregoing, Big O believes it may be damaged by the registration by Applicant of the EUROTIRE mark, as set forth in the application therefor, Serial No. 78/747,912.

10. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant may obtain unlawful gain and advantage to which he is not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

WHEREFORE, this Opposer, Big O Tires, Inc., believes and alleges that it may be damaged by registration of the EURO TIRE mark of application serial no. 78/747,912, as aforesaid, and prays that:

- a. judgment in the present opposition be entered in favor of Opposer;
- b. the present opposition be sustained; and
- c. registration of application Serial No. 78/747,912 be rejected and refused.

Respectfully submitted,

BIG O TIRES, INC.

By:



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Date: January 3, 2007